

Remarks/Arguments

In response to the Restriction/election requirement dated 02/22/2006, Applicants submit the following response.

The Examiner has requested restriction of the present application into two groups:

Group I comprising Claims 1-24, 47, and 48, drawn to a method to provide pulses to the vagus nerves, Classified in Class 607, subclass 118.

Group II Claims 25-46, drawn to a system for providing electric pulses to vagus nerve, Classified in Class 607, subclass 002.

The Examiner's restriction of Claims 25-45 is respectfully traversed. All of the claims in this application generally relate to treating obesity and eating disorders and others by providing electrical pulses to vagus nerve. Indeed, by identifying all pending claims to be in the same class the Examiner has recognized that these claims are closely related.

It is well established that where a single field of search thoroughly covers all of the claims in an application, different classifications in the Patent and Trademark Office are not controlling. Indeed, at the beginning of M.P.E.P. § 803 entitled "Restriction- when Proper," the Patent Office established the following standards for restriction requirement:

"If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even if it includes claims to a distinct or independent invention" M.P.E.P. § 803.

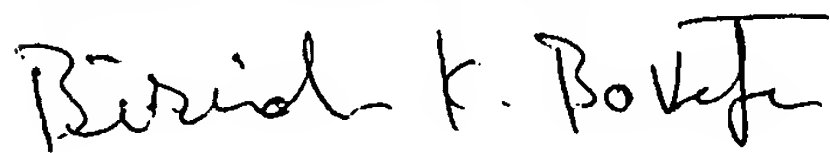
This M.P.E.P. rule confirms the long-standing practice encouraged by Commissioner's Office that:

" If the search and examination of an entire application can be made without serious burden, the examiner is encouraged to examine it on the merits, even though it includes claims to distinct or independent invention." Commissioner's Notice of April 9, 1975, 934 OG 450.

Here, searching and examining all of these claims in a single application would not impose a serious burden on the Examiner, particularly since all the pending claims have been categorized in the same class. Rather, Applicant submits that the Restriction Requirement in this case only serves to increase the time, expense and effort to prosecute this application, both to the Patent and Trademark Office and to the Applicant. As such, Applicant respectfully requests the Examiner to reconsider and withdraw the restriction requirement.

If the Examiner disagrees and maintains the restriction requirement as set forth in the Office Action, Applicants elect with traverse to proceed with the prosecution of the Claims in Group I, comprising Claims 1-24, 47, and 48. Claims 25-37 are withdrawn, Claims 38-46 are cancelled, and new Claims 49-57 are added. The applicants reserve the right to pursue the subject matter of Claims 25-37 in the present application or in a continuing application(s). The Examiner is invited to contact the undersigned should the Examiner deem such communication to be helpful.

Respectfully submitted,



Birinder R. Boveja, Inventor

P.O. Box 210095

Milwaukee, WI – 53221.

414-427-8115 (phone)